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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/995,363	11/27/2001	Daniel Meyer	P10-1254	9023

7590 12/10/2003

Michelin North America, Inc.  
Attention Martin Farrell  
Intellectual Property Department  
P.O. Box 2026  
Greenville, SC 29602

EXAMINER

KNABLE, GEOFFREY L

ART UNIT	PAPER NUMBER
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1733

DATE MAILED: 12/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

eb6

<b>Office Action Summary</b>	Application No. 09/995,363	Applicant(s) MEYER, DANIEL	
	Examiner Geoffrey L. Knable	Art Unit 1733	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 October 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) 8 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7 is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☒ Claim(s) 2-6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All   b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2</u> . | 6) <input type="checkbox"/> Other: _____                                    |

Art Unit: 1733

1. Applicant's election without traverse of group I, claims 1-7 in Paper No. 5 is acknowledged.

2. Claim 8 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Election was made **without** traverse in Paper No. 5.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 1 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Perrin (US 5,863,368).

Perrin discloses a device for applying a cable onto a receiving surface including a capstan "5" that feeds the cable at a given speed V1 as well as displacement means "7" and positioning means (e.g. drum 120). Further, the path or conformation of the cables on the support (and thus in part the cable amplitude) is regulated by adjustment of the speeds of the capstan "5" and the calender 12 - e.g. note col. 5, line 59+. Although there does not appear to be direct mention of "control means" to effect this speed adjustment, provision of such would have been seen to be implicit or in any event

certainly obvious to appropriately be able to provide the necessary speed adjustment, such thereby providing control of the amplitude as noted above. Although it is noted that the reference seems to indicate that the speed is typically set to a fixed value during any particular ply production (e.g. col. 4, lines 45-56), the present claims are directed to a device rather than any particular manner for its use and the suggestion that the conformation of the cords on the support is governed by regulation of the speeds V1 and V2 is considered to suggest an apparatus that is capable of amplitude variation as claimed. It is also noted that claim 1 requires that the cable be applied onto a rotating receiving surface whereas Perrin seems to apply the cords to a strip. It however would seem that e.g. the drum 121 can be termed a rotating receiving surface upon which the cords are applied. Note also that in the description of the EP equivalent to this reference (i.e. EP 724949) in the background portion of the present specification, it is described as applying the cords on a rotating surface. In any event, even if not deemed to read on that claimed, it would have been an obvious alternative to apply the cords directly on a mandrel if it is desired to directly form an endless tire ply, such being well known per se in this art.

6. Claims 2-6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 7 is allowed.

Among the closest prior art, Perrin (US 5,863,368), as noted above, discloses a device for applying a cord onto a receiving surface including a capstan "5" that feeds the

cable at a given speed  $V_1$  as well as displacement means "7" and positioning means (e.g. drum 120). Further, the path of the cables on the support (and thus in part the cable amplitude) is regulated by adjustment of the speeds of the capstan "5" and the calender 12 - e.g. note col. 5, line 59+. This patent however would not suggest or render obvious a device that further includes a displacing means configured and operable as defined in claims 2 or 7.

Sanders (US 3,526,368) discloses a device for applying a cord onto a rotating support in which the cord feed speed as well as the traversing speed and mandrel rotation speeds are controlled. This speed control however is interconnected such that these are controlled simultaneously and proportionately (col. 3, lines 68+) and therefore there is no suggestion of a device which would allow or provide control of a feed speed relative to the drum speed as claimed.

Ginter (US 4,874,455) discloses a device for applying cords onto a rotating support including the ability to control and adjust the amplitude of the cords on the surface. This patent however does not teach or render obvious a device having control of the amplitude by adjusting speed  $V_1$  relative to  $V_2$  with displacing means configured and operable in response thereto as required by claims 2-7.

None of the closest prior art, then, whether taken singly or in combination, would teach or render obvious a device as required by claims 2-7.

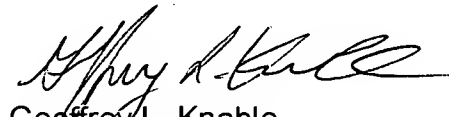
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Geoffrey L. Knable whose telephone number is 703-

Art Unit: 1733

308-2062 until 12/18/03; 571-272-1220 thereafter. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on 703-308-3853. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0651.



Geoffrey L. Knable  
Primary Examiner  
Art Unit 1733

G. Knable  
December 5, 2003